

<i>SERFF Tracking Number:</i>	<i>BEAC-125702283</i>	<i>State:</i>	<i>Arkansas</i>
<i>First Filing Company:</i>	<i>The Employers' Fire Insurance Company, ...</i>	<i>State Tracking Number:</i>	<i>EFT \$50</i>
<i>Company Tracking Number:</i>	<i>2008-PL-AR-FO-553</i>		
<i>TOI:</i>	<i>17.0 Other Liability-Occ/Claims Made</i>	<i>Sub-TOI:</i>	<i>17.0000 Other Liability Sub-TOI Combinations</i>
<i>Product Name:</i>	<i>@vantage For Tech E&O Basic</i>		
<i>Project Name/Number:</i>	<i>@vantage For Tech E&O Basic/2008-PL-AR-FO-553</i>		

Filing at a Glance

Companies: The Employers' Fire Insurance Company, OneBeacon America Insurance Company
Product Name: @vantage For Tech E&O Basic SERFF Tr Num: BEAC-125702283 State: Arkansas
TOI: 17.0 Other Liability-Occ/Claims Made SERFF Status: Closed State Tr Num: EFT \$50
Sub-TOI: 17.0000 Other Liability Sub-TOI Co Tr Num: 2008-PL-AR-FO-553 State Status: Fees verified and
Combinations received
Filing Type: Form Co Status: Reviewer(s): Betty Montesi, Edith Roberts
Disposition Date: 12/12/2008
Authors: Judith Carrasco, Linda Jordan-Dow, Sharon Kennedy, Joshua Levine
Date Submitted: 07/16/2008 Disposition Status: Approved
Effective Date Requested (New): 08/20/2008 Effective Date (New):
Effective Date Requested (Renewal): 08/20/2008 Effective Date (Renewal):
State Filing Description:

General Information

Project Name: @vantage For Tech E&O Basic	Status of Filing in Domicile:
Project Number: 2008-PL-AR-FO-553	Domicile Status Comments:
Reference Organization:	Reference Number:
Reference Title:	Advisory Org. Circular:
Filing Status Changed: 12/12/2008	
State Status Changed: 07/17/2008	Deemer Date:
Corresponding Filing Tracking Number: 2008-PL-AR-RR-553	
Filing Description:	

We are submitting the enclosed forms in support of changes being made to our Technology E&O Professional Liability coverage in our @vantage Product. Please see the attached Explanatory Memorandum for further details. We intend to make this coverage available for policies issued on or after August 20, 2008.

SERFF Tracking Number: BEAC-125702283 State: Arkansas
 First Filing Company: The Employers' Fire Insurance Company, ... State Tracking Number: EFT \$50
 Company Tracking Number: 2008-PL-AR-FO-553
 TOI: 17.0 Other Liability-Occ/Claims Made Sub-TOI: 17.0000 Other Liability Sub-TOI Combinations
 Product Name: @vantage For Tech E&O Basic
 Project Name/Number: @vantage For Tech E&O Basic/2008-PL-AR-FO-553

Company and Contact

Filing Contact Information

Sharon Kennedy, Compliance Analyst skennedy@onebeacon.com
 One Beacon Lane (781) 332-8190 [Phone]
 Canton, MA 02021-1030 (888) 209-7219[FAX]

Filing Company Information

The Employers' Fire Insurance Company	CoCode: 20648	State of Domicile: Massachusetts
One Beacon Lane	Group Code: 1129	Company Type:
Canton, MA 02021-1030	Group Name:	State ID Number:
(781) 332-7000 ext. [Phone]	FEIN Number: 04-1288420	

OneBeacon America Insurance Company	CoCode: 20621	State of Domicile: Massachusetts
One Beacon Lane	Group Code: 1129	Company Type:
Canton, MA 02021-1030	Group Name:	State ID Number:
(781) 332-7000 ext. [Phone]	FEIN Number: 04-2475442	

Filing Fees

Fee Required? Yes
 Fee Amount: \$50.00
 Retaliatory? No
 Fee Explanation: AR form filing fee = \$50.00 per filing, per line of business.

1 filing x 1 Line of Business x \$50.00 = \$50.00 total filing fees.
 Per Company: No

COMPANY	AMOUNT	DATE PROCESSED	TRANSACTION #
The Employers' Fire Insurance Company	\$50.00	07/16/2008	21437738
OneBeacon America Insurance Company	\$0.00	07/16/2008	

SERFF Tracking Number:	BEAC-125702283	State:	Arkansas
First Filing Company:	The Employers' Fire Insurance Company, ...	State Tracking Number:	EFT \$50
Company Tracking Number:	2008-PL-AR-FO-553		
TOI:	17.0 Other Liability-Occ/Claims Made	Sub-TOI:	17.0000 Other Liability Sub-TOI Combinations
Product Name:	@vantage For Tech E&O Basic		
Project Name/Number:	@vantage For Tech E&O Basic/2008-PL-AR-FO-553		

Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
Approved	Edith Roberts	12/12/2008	12/12/2008

Objection Letters and Response Letters

Objection Letters				Response Letters		
Status	Created By	Created On	Date Submitted	Responded By	Created On	Date Submitted
Pending	Edith Roberts	07/17/2008	07/17/2008	Sharon Kennedy	09/03/2008	10/30/2008
Industry						
Response						

SERFF Tracking Number:	BEAC-125702283	State:	Arkansas
First Filing Company:	The Employers' Fire Insurance Company, ...	State Tracking Number:	EFT \$50
Company Tracking Number:	2008-PL-AR-FO-553		
TOI:	17.0 Other Liability-Occ/Claims Made	Sub-TOI:	17.0000 Other Liability Sub-TOI Combinations
Product Name:	@vantage For Tech E&O Basic		
Project Name/Number:	@vantage For Tech E&O Basic/2008-PL-AR-FO-553		

Disposition

Disposition Date: 12/12/2008

Effective Date (New):

Effective Date (Renewal):

Status: Approved

Comment:

Rate data does NOT apply to filing.

Overall Rate Information for Multiple Company Filings

Overall Percentage Rate Indicated For This Filing	0.000%
Overall Percentage Rate Impact For This Filing	0.000%
Effect of Rate Filing-Written Premium Change For This Program	\$0
Effect of Rate Filing - Number of Policyholders Affected	0

SERFF Tracking Number: BEAC-125702283 State: Arkansas
 First Filing Company: The Employers' Fire Insurance Company, ... State Tracking Number: EFT \$50
 Company Tracking Number: 2008-PL-AR-FO-553
 TOI: 17.0 Other Liability-Occ/Claims Made Sub-TOI: 17.0000 Other Liability Sub-TOI Combinations
 Product Name: @vantage For Tech E&O Basic
 Project Name/Number: @vantage For Tech E&O Basic/2008-PL-AR-FO-553

Item Type	Item Name	Item Status	Public Access
Supporting Document	Uniform Transmittal Document-Property & Casualty	Approved	Yes
Supporting Document	Explanatory Memorandum	Approved	Yes
Form	Technology Errors Or Omissions Coverage Form (Basic Form)	Approved	Yes
Form	Communications Liability Protection Coverage Form	Approved	Yes

SERFF Tracking Number: BEAC-125702283 State: Arkansas
First Filing Company: The Employers' Fire Insurance Company, ... State Tracking Number: EFT \$50
Company Tracking Number: 2008-PL-AR-FO-553
TOI: 17.0 Other Liability-Occ/Claims Made Sub-TOI: 17.0000 Other Liability Sub-TOI Combinations
Product Name: @vantage For Tech E&O Basic
Project Name/Number: @vantage For Tech E&O Basic/2008-PL-AR-FO-553

Objection Letter

Objection Letter Status Pending Industry Response
Objection Letter Date 07/17/2008
Submitted Date 07/17/2008
Respond By Date
Dear Sharon Kennedy,

This will acknowledge receipt of the captioned filing.

With reference to Form APR 010 0607 and Form APR 011 0508, Section VI Extended Reporting Periods, #2, Arkansas does not allow that the insurer withhold either the basic or optional extended reporting periods for cancellation/termination due to non-payment of premium, or if deductibles, retentions or excess payments over the limit of liability reimbursements are owed. Also, if payment is received to purchase the optional extended reporting period, that payment must be applied to place the optional extended reporting period coverage into effect, rather than first applied to any monies owed on the terminating policy.

With reference to #5 of the same section, The Supplemental Extended Reporting Endorsement must comply with Ark. Code. Ann. §23-79-306 (f) which states that the limit of liability must be no less than the greater of the amount of coverage remaining in the expiring policy aggregate or fifty percent (50%) of the aggregate limit at policy inception.

Please feel free to contact me if you have questions.

Sincerely,
Edith Roberts

Response Letter

Response Letter Status Submitted to State
Response Letter Date 09/03/2008
Submitted Date 10/30/2008

Dear Edith Roberts,

Comments:

Response 1

SERFF Tracking Number: BEAC-125702283 State: Arkansas
First Filing Company: The Employers' Fire Insurance Company, ... State Tracking Number: EFT \$50
Company Tracking Number: 2008-PL-AR-FO-553
TOI: 17.0 Other Liability-Occ/Claims Made Sub-TOI: 17.0000 Other Liability Sub-TOI Combinations
Product Name: @vantage For Tech E&O Basic
Project Name/Number: @vantage For Tech E&O Basic/2008-PL-AR-FO-553

Comments: Dear Ms. Roberts,

Arkansas state exception form APR 704 AR 06 07, which was approved with our initial tech filing (SERFF Tracking # BEAC-125762051) addresses your concerns regarding Forms APR 010 06 07 and APR 011 06 07 by replacing paragraph 1. a. of Section VI with the following: "This Coverage Part is canceled or not renewed for any reason."

Arkansas state exception form APR 704 AR 06 07 also adds the following to Section VI:

7. If the supplemental extended reporting period is in effect, we will provide a separate Aggregate Limit of Insurance no less than the greater of:

- a. The amount of coverage remaining in the expiring policy's aggregate; or
- b. Fifty percent (50%) of the expiring policy's aggregate limit at inception.

This separate Aggregate Limit of Insurance applies only to claims first received and recorded during the supplemental extended reporting period.

Please let me know if you have any additional concerns.

Sincerely,

Sharon Kennedy

Changed Items:

No Supporting Documents changed.

No Form Schedule items changed.

No Rate/Rule Schedule items changed.

Sincerely,

Joshua Levine, Judith Carrasco, Linda Jordan-Dow, Sharon Kennedy

SERFF Tracking Number: BEAC-125702283 State: Arkansas

First Filing Company: The Employers' Fire Insurance Company, ... State Tracking Number: EFT \$50

Company Tracking Number: 2008-PL-AR-FO-553

TOI: 17.0 Other Liability-Occ/Claims Made Sub-TOI: 17.0000 Other Liability Sub-TOI Combinations

Product Name: @vantage For Tech E&O Basic

Project Name/Number: @vantage For Tech E&O Basic/2008-PL-AR-FO-553

Form Schedule

Review Status	Form Name	Form #	Edition Date	Form Type Action	Action Specific Data	Readability	Attachment
Approved	Technology Errors Or Omissions Coverage Form (Basic Form)	APR 011	05 08	Policy/CoveNew rage Form		0.00	APR 011 05 08 .pdf
Approved	Communications Liability Protection Coverage Form	APR 010	05 08	Policy/CoveReplaced rage Form	Replaced Form #:0.00 APR 010 06 07 Previous Filing #:		APR 010 05 08.pdf

TECHNOLOGY ERRORS OR OMISSIONS COVERAGE

(BASIC FORM)

**THIS FORM PROVIDES CLAIMS MADE AND REPORTED COVERAGE.
PLEASE READ THE ENTIRE FORM CAREFULLY.**

Read this entire coverage form carefully to determine rights, duties and what is and is not covered. Various provisions in this policy restrict coverage.

Throughout this coverage form, the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we," "us" and "our" refer to the Company providing this insurance.

The word "insured" means any person or organization qualifying as such under **Section II – WHO IS AN INSURED**.

Other words and phrases that appear in **bold** may have special meaning. Refer to **Section VII – DEFINITIONS**.

SECTION I - COVERAGE

1. Insuring Agreement

- a. Where this insurance applies, we will pay **damages** for economic injury for which an Insured becomes legally liable where such injury is caused by an **error or omission** that results from the failure of **your technology offerings**. We will have the right and duty to defend the insured against **suits** seeking covered damages. However, we will have no duty to defend the insured for **suits** to which this insurance does not apply. We may, at our discretion, investigate any **claim** based on an alleged **error or omission**. But:
 - (1) Both the amount we will pay for damages and the amount we will pay in **defense costs** are limited as described in **Section III - LIMITS OF INSURANCE** and **Section V - DEDUCTIBLE**; and
 - (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in payment of judgments, settlements or **defense costs**. No other obligation or liability to pay sums or perform acts or services is covered.
- b. This insurance applies to **claims** for **damages** first made against an insured during the policy period and reported to us during the policy period or any Extended Reporting Period we provide under **Section VI – EXTENDED REPORTING PERIODS** caused by an **error or omission** if:
 - (1) The **claim** arises out of an **error or omission** that takes place in the **Coverage territory**; and
 - (2) The **error or omission** takes place:
 - (a) After the Retroactive Date, if any, shown in the Declarations; and
 - (b) Before the end of the policy period.

Each **error or omission** in a **series of related errors or omissions** will be deemed to have been committed on the date the first **error or omission** in a **series of related errors or omissions** is committed. The first **error or omission** in a **series of related errors or omissions** must take place after the Retroactive Date, if any, shown in the Declarations, and before the end of the policy period for this insurance to apply.
- c. A **claim** by a person or organization seeking damages will be deemed to have been made at the earlier of the following times:
 - (1) When notice of such **claim** is received by any insured or by us, whichever comes first; or;
 - (2) If notice of an **error or omission** is provided pursuant to **SECTION VIII - CONDITIONS** and a **claim** based on that **error or omission** is subsequently made, the date we receive written notice of such **error or omission**.

If multiple **claims** result from the same **error or omission**, or series of related **errors or omissions**, all such **claims** will be deemed to have been made on the date the first of those **claims** is made.

2. Exclusions

This insurance does not apply to any **claim** based upon, arising out of or in any way related to:

a. Assumed Liability

Liability assumed by any insured under any contract or agreement. This exclusion does not apply to:

- (1) Liability for damages that the insured would have had in the absence of the contract or agreement; or
- (2) Liability assumed in a contract or agreement provided that the damages, to which this insurance applies, are caused by **errors or omissions** first committed by you or on your behalf after the execution of such contract or agreement.

b. Bodily Injury or Property Damage

- (1) Bodily injury, sickness, disease, mental anguish, mental injury, humiliation, shock, loss of services or death; or
- (2) Physical injury to tangible property whether or not owned by any insured, including all resulting loss of use of that property. Tangible property does not include data or other information that is in electronic form.

c. Costs to Comply With Your Warranties

The cost or expense to comply with any warranty, including but not limited to, the cost or expense to correct, repair, or replace **your technology offerings**.

d. Cost Estimates

Your costs, charges or fees that:

- (1) Exceed your, or your agent's, guarantees or estimates;
- (2) Are misrepresented, not accurately described in your contract or agreement or not accurately calculated; or
- (3) Are charged for taxes that are neither owed nor remitted to a governmental entity.

e. Delay in Delivery

- (1) Delay in delivery of; or
- (2) Failure to deliver
your technology offerings.

f. Delay in Performance

- (1) Delay in performance of; or
- (2) Failure to begin
your technology offerings.

g. Dishonest Acts

Any actual or alleged dishonest act, including fraudulent, criminal or malicious acts, committed by an insured. This exclusion does not apply to any insured that did not participate in or know about the dishonest act. However we will apply this exclusion to all insureds if the dishonest act is done with the consent or knowledge of the Named Insured or any of the Named Insured's directors, partners or executive officers.

h. Fines or Penalties

Any fines or penalties imposed by law.

i. Injunctive Relief

Any injunctive or other equitable relief, including disgorgement and restitution, or the cost to comply with such relief.

j. Insured versus Insured

Any claim against an insured that is brought by or on behalf of any insured.

k. Intellectual Property

Any actual or alleged infringement or violation by any person or organization, including an insured, of any **intellectual property right or law**, regardless of whether this insurance would otherwise apply in whole or in part in the absence of any such actual or alleged assertion, infringement or violation.

l. Intentional Acts

Any actual or alleged intentional act committed by an insured. This exclusion does not apply to any insured that did not participate in or know about the intentional act. However, we will apply this exclusion to all insureds if the intentional act is done with the consent or knowledge of the Named Insured or any of the Named Insureds directors, partners or executive officers.

m. Multiplied Damages

Any multiple portion of any damages award.

n. Nuclear Energy

The furnishing by an insured of services, products, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**.

o. Personal and Advertising Injury

Injury, including consequential bodily injury, arising out of one or more of the following offenses:

- (1) False arrest, detention or imprisonment;
- (2) Malicious prosecution;
- (3) The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- (4) Libel or slander;
- (5) Oral or written publication, in any manner, of material that disparages a person's or organization's goods, products or services;
- (6) Oral or written publication, in any manner, of material that violates a person's right of privacy or right of publicity; or
- (7) The use of another's advertising idea in your **advertisement**.

p. Prior Knowledge or Reported Acts

Any **error or omission** the **insured** had knowledge of, or any **error or omission** that has been reported to another insurance company, prior to the effective date of this policy period.

q. Pollution

- (1) The actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of pollutants.
- (2) Any request, demand or order issued or made pursuant to any environmental protection or environmental liability laws that you or others test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize pollutants.

Pollutants means one or more solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapor, soot, fumes, acids, mold(s), alkalis, chemicals, and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

r. Prior Wrongful Acts

Any **error or omission** first committed before the Retroactive Date shown in the policy.

s. Product Recall

The withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) **Your products**;
- (2) Any property on which **your work** was performed; or
- (3) Impaired property, meaning tangible property other than **your technology offerings**, that cannot be used or is less useful because:

- (a) It incorporates **your technology offerings** that is known or thought to be defective, deficient, or inadequate; or
- (b) You have failed to fulfill the terms of a contract or agreement;

If such property can be restored to use by:

- (i) The repair, replacement, adjustment or removal of **your technology offerings**, or
- (ii) Your fulfilling the terms of the contract or agreement;

If such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, or inadequacy in **your technology offerings** or impaired property.

However, we will not apply this exclusion to claims by third parties for loss of use resulting from the withdrawal, recall, inspection, repair, replacement, adjustment or removal of **your technology offerings**.

t. Termination of Contracts or Licenses

Any actual, alleged, or threatened termination, lapse, or change of any agreement, contract or license if such termination, lapse, or change is within the insured's control.

u. Unauthorized Access

Failure to prevent unauthorized access to private data.

v. Violation of Statutes Governing Methods of Sending Material or Information

Any distribution of material that violated or is alleged to violate:

- a. The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
- b. The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- c. Any statute, ordinance or regulation, other than TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating, or distribution of material or information.

w. Violation of Trade Law

Any actual or alleged violation of any law relating to anti-trust, restraint of trade, unfair trade practices, false or deceptive advertising or any other law protecting competition, consumers or privacy.

SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture, or limited liability company, you are an insured. Your **executive officers** and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

2. Each of the following is also an insured:

- a. Your **employees**, other than either your **executive officers** (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.
- b. Any organization you newly acquire or form, other than a partnership, joint venture, or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However, coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture, or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III – LIMITS OF INSURANCE

1. The Limit of Insurance shown in the Declarations for this coverage and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. **Claims** made; or
 - c. Persons or organizations making **claims**.
2. The Limit of Insurance stated as the Annual Aggregate Limit is the most we will pay for the sum of:
 - a. Damages for any **claim(s)**; and
 - b. **Defense costs** for any **claim(s)** seeking damages payable under **a.** above.

Each payment we make for such damages or **defense costs** reduces the amount of limit available under the Annual Aggregate Limit by the amount of such payment. This reduced limit will then be the Annual Aggregate Limit of Insurance available. When this Annual Aggregate Limit of Insurance is used up, we shall have no further obligation to defend **claim(s)** seeking such damage or pay such damages or **defense costs**.

The Annual Aggregate Limit of Insurance applies separately to each consecutive annual period, and to any remaining period of less than 12 months, starting with the beginning of the policy shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Annual Aggregate Limit of Insurance.

3. Subject to **2.** above, the most we will pay for each **claim**, including **defense costs** for that claim, is the Per Claim Limit of Insurance stated in the Declarations. However, we will not pay until the **claim**, including damages and **Defense costs**, exceeds the Deductible, and then we will pay only the amount in excess of the Deductible.
4. For the purpose of the application of any Limit of Insurance, regardless of the number of insureds or claimants involved, all **claims** arising from an **error or omission** or a **series of related errors or omissions** shall be deemed to be a single **claim**.
5. This insurance applies separately to each insured against whom a **claim** is made. However, the Limits of Insurance are not increased by the number of insureds under the policy.

SECTION IV - SUPPLEMENTARY PAYMENTS

1. We will pay, with respect to any **claim** we investigate or settle, or any **suit** against an insured we defend:
 - a. All expenses other than **defense costs** we incur.
 - b. the cost of bonds to release attachments, but only for bond amounts within the applicable Limit of Insurance. We do not have to furnish these bonds.
 - c. All costs, not including **defense costs**, taxed against the insured in a **suit**.
 - d. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable Limit of Insurance to resolve a claim, we will not pay any prejudgment interest accrued after the offer.
 - e. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit of Insurance.
2. These payments will not reduce the Limits of insurance. Our obligation to make these payments ends when we have used up the applicable Limits of Insurance.

SECTION V - DEDUCTIBLE

1. Your Deductible is the amount shown in the Declarations and applies to each **claim**.
2. For the purpose of the application of the Deductible, regardless of the number of insureds or claimants involved, all **claims** arising from an **error or omission** or a **series of related errors or omissions** shall be

deemed to be a single **claim**. Your deductible applies to any payment we make for damages, **defense costs** or Supplementary Payments.

3. We may pay any part or all of the Deductible to settle any **claim**. When we notify you of such payment, you will reimburse us as soon as practicable for such part of the Deductible we paid.

SECTION VI - EXTENDED REPORTING PERIODS

1. We will provide one or more Extended Reporting Periods, as described below, if:
 - a. This Coverage Part is canceled or not renewed for any reason except non-payment of the premium; or
 - b. We renew or replace this Coverage Part with insurance that:
 - (1) Has a Retroactive Date later than the date shown in the Declarations of this Coverage Part; or
 - (2) Does not apply to **error or omission** on a claims made basis.
2. Extended Reporting Periods do not extend the policy period or change the scope of coverage provided. They apply only to **claims for errors or omissions** that take place after the Retroactive Date, if any, shown in the Declarations and before the end of the policy period. Once in effect, Extended Reporting Periods may not be canceled.
3. A Basic Extended Reporting Period is automatically provided without additional charge. This period starts with the end of the policy period and lasts for 60 days after the end of the policy period.

The Basic Extended Reporting Period does not apply to **claims** that are covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such **claims**.

4. A Supplemental Extended Reporting Period is available for terms of 60 months or unlimited duration, but only by an endorsement and for an extra charge. This supplemental period starts 60 days after the end of the policy period.

You must give us a written request for the endorsement, specifying which term is desired, within 60 days after the end of the policy period. The Supplemental Extended Reporting Period will not go into effect unless the insured pays the additional premium promptly when due.

We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:

- a. The exposures insured;
- b. Previous types and amounts of insurance;
- c. Limits of Insurance available under this Coverage Part for future payments of damages; and
- d. Other related factors.

The additional premium will not exceed 200% of the annual premium for this Coverage Part.

The endorsement shall set forth the terms, not inconsistent with this Section, applicable to the Supplemental Extended Reporting Period.

The Supplemental Extended Reporting Period does not apply to **claims** that are covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such **claims**.

5. Extended Reporting Periods do not reinstate or increase the Limits of Insurance applicable to any **claim** to which this coverage form applies.
6. If we cancel or non-renew this coverage form, we will include with the notice of cancellation or non-renewal a Notice To Our Policyholder in which we will advise the insured of the availability of the Supplemental Extended Reporting Period, the additional premium charge of the Supplemental Extended Reporting Period and the importance of purchasing the Supplemental Extended Reporting Period option.

If the insured cancels or non-renews this coverage form or if we agree to renew subject to specific conditions; we will provide the insured with the Notice To Our Policyholder described above within 30 days of the effective date of policy termination or conditional renewal.

SECTION VII - DEFINITIONS

1. **Advertisement** means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purpose of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Only that part of a web-site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. **Claim** means any written demand for money or services, **suit**, or threat to institute a **suit** based on an actual or alleged **error or omission**.
3. **Coverage territory** means anywhere in the world.
4. **Damages** means amounts an **insured** is legally required to pay as compensatory damages imposed by law. **Damages** does not include:
 - a. Attorney fees or litigation expenses, or other loss, cost or expense, in connection with any injunction or other equitable relief; or
 - b. Amounts owed or paid to any insured in connection with **your technology offerings**, including any return of charges, fees, or amounts due under a contract.
5. **Defense costs** means fees incurred by an attorney we designate; and all other reasonable fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a **claim** or **suit**. Such fees, costs and expenses must be incurred by us; an attorney we designate; or by the insured with our consent. **Defense costs** includes up to \$1,000 per day in actual lost earnings incurred by the insured due to time taken off from work at our request and in support of our investigation, adjustment or defense or appeal of a **claim** or **suit**. However, “defense costs” does not mean:
 - a. Salaries or expenses of our employees (other than those described above within this Section).
 - b. Salaries or expenses of independent adjusters.
 - c. Fees, costs, or expenses related to coverage opinions.
6. **Employee** includes a **leased worker**. **Employee** does not include a **temporary worker**.
7. **Error or omission** means any negligent act, error or omission committed by an **insured** in the conduct of your business resulting in the failure of **your technology offerings** to perform the function or serve the purpose intended.
8. **Executive officer** means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
9. **Insured** means a person or organization qualifying as an insured in the WHO IS AN INSURED section of this policy.
10. **Intellectual property right or law** means any:
 - a. Copyright, patent, trade name, trademark, trade dress, certification mark or service mark;
 - b. Law concerning unfair competition, piracy or misappropriation of concepts;
 - c. Right to or law concerning trade secret or confidential or proprietary information; or
 - d. Other right to or law recognizing an interest in any idea, expression, name, slogan, style of doing business, title or other intellectual property.
11. **Leased worker** means a person leased to you by a labor leasing firm, under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. **Leased worker** does not include a **temporary worker**.
12. **Nuclear facility** means:
 - a. Any **nuclear reactor**;
 - b. Any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste;
 - c. Any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such

equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combinations thereof, or more than 250 grams of uranium 235;

- d. Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of, waste, and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

13. Nuclear reactor means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

14. Series of related errors or omissions means two or more **errors or omissions** that have a common connection by reason of fact, circumstance, transaction or event.

15. Suit means a civil proceeding seeking damages based on an alleged **error or omission** to which this insurance applies. **Suit** includes:

- a. An arbitration proceeding in which such damages are alleged to which you must submit, or one to which you may submit with our consent. .
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

16. Temporary worker means a person who is furnished to you to substitute for a permanent **employee** on leave or to meet seasonal or short-term workload conditions.

17. Your products means goods, programs, designs, products, services or components which you or others trading under your name manufactured, sold, handled, or distributed.

Your products includes:

- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your products**; and
- b. The providing of or failure to provide warnings or instructions.

18. Your technology offerings means **your products** and **your work**.

19. Your work means work, service or operations performed by you or on your behalf for others including;

- a. Analyzing, designing, integrating, maintaining, processing, programming, providing repairing or servicing software, programs or systems; or
- b. Analyzing, designing or maintaining any communications network, web site or internet operation; or
- c. Managing or processing data or other information that is in electronic form; or
- d. Consulting, staffing, training and other support services related to **your technology offerings**; or
- e. Materials, parts or equipment furnished in connection with such work.

Your work includes;

- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your work**; and
- b. The providing of or failure to provide warnings and instructions.

SECTION VIII - CONDITIONS

The following conditions apply in addition to the Common Policy Conditions. In case of conflict between these conditions and the Common Policy Conditions, these conditions shall apply as respects this Coverage Part.

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties in the Event of Error or Omission, Claim, or Suit

- a. When you become aware of an **error or omission**, you must see to it that we are notified as soon as practicable of the **error or omission**. The notice must include:

- (1) How, when and where the **error or omission** took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any damage arising out of the **error or omission**.

Notice of an **error or omission** is not notice of a **claim**. However, any **claim** resulting from the circumstances described in a notice of an **error or omission** will be deemed to have been made on the date we receive such notice.

- b. If a **claim** is made or **suit** is brought against any insured, you must:
 - (1) Immediately record the specifics of the **claim** or **suit** and the date received; and
 - (2) See to it we receive written notice of the **claim** or **suit** as soon as practicable;
 - (3) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the **claim** or **suit**;
 - (4) Authorize us to obtain records and other information relating to the **claim** or **suit**;
 - (5) Cooperate with us in the investigation, settlement or defense of the **claim** or **suit**; and
 - (6) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to an insured for the covered damages which we paid in the **claim** or **suit** to which this insurance may also apply.
- c. If you become aware of an **error or omission** prior to the end of this policy period, a **claim** will be deemed to have been made during the policy period, only if:
 - (1) We receive written notice during the policy period of this insurance; and
 - (2) The **claim** is first made against an insured before the end of the policy period or a policy period in which we have continuously provided this coverage to you or during any supplemental extended reporting period exercised under this insurance.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, incur any expense, or settle any **claim** or **suit**, without our consent.

3. Legal Action Against Us

No person or organization has a right under this coverage form:

- a. To join us as a party or otherwise bring us into a **suit** asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after an actual trial, but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Excess Insurance

This insurance is excess over any other collectible insurance, whether primary, excess, contingent or on any other basis, including insurance that is effective prior to the beginning of the policy period shown in the Declarations of this insurance and applies to **errors or omissions** on other than a **claims** made basis.

We will have no duty to defend the insured against any **claim** or **suit** if any other insurer has a duty to defend the insured against that **claim** or **suit**. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

We will pay only our share of the amount of the **claim** or **suit**, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining amount, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

b. Non Accumulation of Limits

If this Coverage Form and any other Coverage Form or policy issued to you by us or any company affiliated with us apply to the same **claim**, the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this coverage form.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations, documentation, data and other material you have furnished us.

7. Separation of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom **claim** is made or **suit** is brought.

8. Transfer of Rights of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring **suit** or transfer those rights to us and help us enforce them. Any recovery will be paid first to us until all amounts we have spent on a **claim** or **suit** have been reimbursed. The insured expressly waives the right to be made whole by any such recovery.

COMMUNICATIONS LIABILITY PROTECTION COVERAGE FORM

THIS FORM PROVIDES COVERAGE ON A CLAIMS MADE AND REPORTED BASIS. PLEASE READ THE ENTIRE FORM CAREFULLY.

Read this entire coverage form carefully to determine rights, duties and what is and is not covered. Various provisions in this policy restrict coverage.

Throughout this coverage form, the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we," "us" and "our" refer to the Company providing this insurance.

The word "insured" means any person or organization qualifying as such under **Section II – WHO IS AN INSURED**.

Other words and phrases that appear in **bold** may have special meaning. Refer to **Section VII – DEFINITIONS**.

SECTION I - COVERAGE

1. Insuring Agreement

- a. We will pay damages that the insured becomes legally obligated to pay arising out of your liability because of a **communications wrongful act**. We will have the right and duty to defend the insured against **suits** seeking covered damages. However, we will have no duty to defend the insured for **suits** to which this insurance does not apply. We may, at our discretion, investigate any **claim** based on an alleged **communications wrongful act**. But:
 - (1) Both the amount we will pay for damages and the amount we will pay in **defense costs** are limited as described in **Section III - LIMITS OF INSURANCE** and **Section V - DEDUCTIBLE**; and
 - (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in payment of judgments, settlements or **defense costs**. No other obligation or liability to pay sums or perform acts or services is covered.
- b. This insurance applies to **claims** for damages first made against an insured during the policy period and reported to us during the policy period or any Extended Reporting Period we provide under **Section VI – EXTENDED REPORTING PERIODS** caused by a **communications wrongful act** if:
 - (1) The **claim** arises out of a **communications wrongful act** that takes place in the **Coverage territory**; and
 - (2) The **communications wrongful act** takes place:
 - (a) After the Retroactive Date, if any, shown in the Declarations; and
 - (b) Before the end of the policy period.

Each **communications wrongful act** in a series of related **communications wrongful acts** will be deemed to have been committed on the date the first **communications wrongful act** in a series of **communications wrongful acts** is committed. The first **communications wrongful act** in a **series of related communications wrongful acts** must take place after the Retroactive Date, if any, shown in the Declarations, and before the end of the policy period for this insurance to apply.
- c. A **claim** by a person or organization seeking damages will be deemed to have been made at the earlier of the following times:
 - (1) When notice of such **claim** is received by any insured or by us, whichever comes first; or;
 - (2) If notice of a **communications wrongful act** is provided pursuant to **SECTION VIII - CONDITIONS** and a **claim** based on that **communications wrongful acts** is subsequently made, the date we receive written notice of such **communications wrongful act**.

If multiple **claims** result from the same **communications wrongful act**, or **series of related communications wrongful acts**, all such **claims** will be deemed to have been made on the date the first of those **claims** is made.

2. Exclusions

This insurance does not apply to any **claim** based upon, arising out of or in any way related to:

a. Assumed Liability

Liability assumed by any insured under any contract or agreement. This exclusion does not apply to:

- (1) Liability for damages that the insured would have had in the absence of the contract or agreement; or
- (2) Liability assumed in a contract or agreement provided that the damages, to which this insurance applies, are caused by **communications wrongful acts** first committed by you or on your behalf after the execution of such contract or agreement.

b. Bodily Injury or Property Damage

- (1) Bodily injury, sickness, disease, mental anguish, mental injury, humiliation, shock, loss of services or death; or
- (2) Physical injury to tangible property whether or not owned by any insured, including all resulting loss of use of that property. Tangible property does not include data.

c. Computer Code or Software

- (1) Any **communications wrongful act** involving software, its source code, or any other content of a software program; or
- (2) piracy of computer code or a software product.

d. Dishonest Acts

Any actual or alleged dishonest act, including fraudulent, criminal or malicious acts, by an insured.

e. Economic Injury

Any loss of income, loss of profits, monetary value of lost market share, loss of goodwill, or damage to business reputation.

f. False Information

Any information that is inaccurate, misleading, or untruthful.

g. Fines or Penalties

Any fines or penalties imposed by law.

h. Insured versus Insured

Any claim against an insured that is brought by, or on behalf of, any insured.

i. Intentional Infringement

Any actual or alleged intentional infringement by an insured.

j. Multiplied Damages

Any multiple portion of any multiplied damages award.

k. Nuclear Energy

The furnishing by an insured of services, products, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**.

l. Patent and Trade Secrets

Any actual or alleged infringement, violation, rights or laws, or misappropriation relating to any of the following:

- (1) patent; or
- (2) trade secrets.

This exclusion applies to all **claims** or **suits** that allege infringement, violation, rights or laws, or misappropriation of patent or trade secrets regardless of other allegations that may be named in a **claim** or **suit**.

m. Personal & Advertising Injury

Injury, including consequential bodily injury, arising out of one or more of the following offenses:

- (1) False arrest, detention or imprisonment;
- (2) Malicious prosecution;
- (3) The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- (4) Libel or slander;
- (5) Oral or written publication, in any manner, of material that disparages a person's or organization's goods, products or services;
- (6) Oral or written publication, in any manner, of material that violates a person's right of privacy.
- (7) The use of another's advertising idea in your **advertisement**; or
- (8) Infringing upon another's copyright, trade dress or slogan in your **advertisement**.

n. Pollution

- (1) The actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of pollutants.
- (2) Any request, demand or order issued or made pursuant to any environmental protection or environmental liability laws that you or others test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize pollutants.

Pollutants means one or more solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapor, soot, fumes, acids, mold(s), alkalis, chemicals, and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

o. Prior Knowledge or Reported Acts

Any **communications wrongful act** the insured had knowledge of or any **communications wrongful act** that has been reported to another insurance company prior to effective date of this policy period.

p. Violation of Statutes Governing Methods of Sending Material or Information

Any distribution of material that violated or is alleged to violate:

- a. The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
- b. The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- c. Any statute, ordinance or regulation, other than TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating, or distribution of material or information.

q. Violation of Trade Law

Any actual or alleged violation of any law relating to anti-trust, restraint of trade, unfair trade practices, false or deceptive advertising or any other law protecting competition or consumers.

SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture, or limited liability company, you are an insured. Your **executive officers** and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

2. Each of the following is also an insured:

- a. Your **employees**, other than either your **executive officers** (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture, or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III – LIMITS OF INSURANCE

1. The Limit of Insurance shown in the Declarations for this coverage and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. **Claims** made; or
 - c. Persons or organizations making **claims**.

2. The Limit of Insurance stated as the Annual Aggregate Limit is the most we will pay for the sum of:
 - a. Damages for any **claim(s)**; and
 - b. **Defense costs** for any **claim(s)** seeking damages payable under **a.** above.

Each payment we make for such damages or **defense costs** reduces the limit available under the Annual Aggregate Limit by the amount of such payment. This reduced limit will then be the Annual Aggregate Limit of Insurance available. When this Annual Aggregate Limit of Insurance is used up, we shall have no further obligation to defend **claim(s)** seeking such damage or pay such damages or **defense costs**.

The Annual Aggregate Limit of Insurance applies separately to each consecutive annual period, and to any remaining period of less than 12 months, starting with the beginning of the policy shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Annual Aggregate Limit of Insurance.

3. Subject to **2.** above, the most we will pay for each **claim**, including **defense costs** for that claim, is the Per Claim Limit of Insurance stated in the Declarations. However, we will not pay until the **claim**, including damages and **defense costs**, exceeds the Deductible, and then we will pay only the amount in excess of the Deductible.
4. For the purpose of the application of any Limit of Insurance, regardless of the number of insureds or claimants involved, all **claims** arising from a **communications wrongful act** or a **series of related communication wrongful acts** shall be deemed to be a single **claim**.
5. This insurance applies separately to each insured against whom a **claim** is made. However, the Limits of Insurance are not increased by the number of insureds under the policy.

SECTION IV - SUPPLEMENTARY PAYMENTS

1. We will pay, with respect to any **claim** we investigate or settle, or any **suit** against an insured we defend:
 - a. All expenses other than **defense costs** we incur.
 - b. the cost of bonds to release attachments, but only for bond amounts within the applicable Limit of Insurance. We do not have to furnish these bonds.
 - c. All costs, not including **defense costs**, taxed against the insured in a **suit**.
 - d. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable Limit of Insurance to resolve a claim, we will not pay any prejudgment interest accrued after the offer.
 - e. All interest on the full covered amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit of Insurance.
2. These payments will not reduce the Limits of insurance. Our obligation to make these payments ends when we have used up the applicable Limits of Insurance.

SECTION V - DEDUCTIBLE

1. Your Deductible is the amount shown in the Declarations and applies to each **claim**.
2. For the purpose of the application of the Deductible, regardless of the number of insureds or claimants involved, all **claims** arising from a **communications wrongful act** or a **series of related communications wrongful acts** shall be deemed to be a single **claim**. Your deductible applies to any payment we make for damages, **defense costs** or Supplementary Payments.
3. We may pay any part or all of the Deductible to settle any **claim**. When we notify you of such payment, you will reimburse us as soon as practicable for such part of the Deductible we paid.

SECTION VI - EXTENDED REPORTING PERIODS

1. We will provide one or more Extended Reporting Periods, as described below, if:
 - a. This Coverage Part is canceled or not renewed for any reason except non-payment of the premium; or
 - b. We renew or replace this Coverage Part with insurance that:
 - (1) Has a Retroactive Date later than the date shown in the Declarations of this Coverage Part; or
 - (2) Does not apply to **communications wrongful act** on a claims-made basis.
2. Extended Reporting Periods do not extend the policy period or change the scope of coverage provided. They apply only to **claims** for **communications wrongful acts** that take place after the Retroactive Date, if any, shown in the Declarations and before the end of the policy period. Once in effect, Extended Reporting Periods may not be canceled.
3. A Basic Extended Reporting Period is automatically provided without additional charge. This period starts with the end of the policy period and lasts for 60 days after the end of the policy period.

The Basic Extended Reporting Period does not apply to **claims** that are covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such **claims**.
4. A Supplemental Extended Reporting Period is available for terms of 60 months or unlimited duration, but only by an endorsement and for an extra charge. This supplemental period starts 60 days after the end of the policy period.

You must give us a written request for the endorsement, specifying which term is desired, within 60 days after the end of the policy period. The Supplemental Extended Reporting Period will not go into effect unless the insured pays the additional premium promptly when due.

We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:

 - a. The exposures insured;
 - b. Previous types and amounts of insurance;
 - c. Limits of Insurance available under this Coverage Part for future payments of damages; and
 - d. Other related factors.

The additional premium will not exceed 200% of the annual premium for this Coverage Part.

The endorsement shall set forth the terms, not inconsistent with this Section, applicable to the Supplemental Extended Reporting Period.

The Supplemental Extended Reporting Period does not apply to **claims** that are covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such **claims**.
5. Extended Reporting Periods do not reinstate or increase the Limits of Insurance applicable to any **claim** to which this coverage form applies.
6. If we cancel or non-renew this coverage form, we will include with the notice of cancellation or non-renewal a Notice To Our Policyholder in which we will advise the insured of the availability of the Supplemental Extended Reporting Period, the additional premium charge of the Supplemental Extended Reporting Period and the importance of purchasing the Supplemental Extended Reporting Period option.

If the insured cancels or non-renews this coverage form or if we agree to renew subject to specific conditions; we will provide the insured with the Notice To Our Policyholder described above within 30 days of the effective date of policy termination or conditional renewal.

SECTION VII – DEFINITIONS

1. **Advertisement** means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purpose of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Only that part of a web-site about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. **Claim** means any written demand for money or services, **suit**, or threat to institute a **suit** based on an actual or alleged **communications wrongful act**.
3. **Communications wrongful act** means the following committed by you in the conduct of your business:
 - a. Infringement of copyright, trademark, trade name, trade dress, service mark, service name, symbol, title, logo or slogan; or
 - b. violation of a person's or organization's right of publicity.
4. **Coverage territory** means anywhere in the world. However, the insured's responsibility to pay damages must be determined in a settlement we agree to or in a suit on the merits brought within the United States of America (including its territories and possessions), Puerto Rico or Canada.
5. **Defense costs** means fees incurred by an attorney we designate; and all other reasonable fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a **claim** or **suit**. Such fees, costs and expenses must be incurred by us; an attorney we designate; or by the insured with our consent. **Defense costs** includes up to \$1,500 per day in actual lost earnings incurred by the insured due to time taken off from work at our request and in support of our investigation, adjustment or defense or appeal of a **claim** or **suit**.
6. **Employee** includes a **leased worker**. **Employee** does not include a **temporary worker**.
7. **Executive officer** means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
8. **Leased worker** means a person leased to you by a labor leasing firm, under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. **Leased worker** does not include a **temporary worker**.
9. **Nuclear facility** means:
 - a. Any **nuclear reactor**;
 - b. Any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste;
 - c. Any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combinations thereof, or more than 250 grams of uranium 235;
 - d. Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of, waste, and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.
10. **Nuclear reactor** means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.
11. **Series of related communication wrongful acts** means two or more **communications wrongful acts** that have a common connection by reason of fact, circumstance, transaction or event.
12. **Suit** means a civil proceeding seeking damages based on an alleged **communications wrongful act** to which this insurance applies. **Suit** includes:

- a. An arbitration proceeding in which such damages are alleged to which you must submit, or one to which you may submit with our consent.
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

13. Temporary worker means a person who is furnished to you to substitute for a permanent **employee** on leave or to meet seasonal or short-term workload conditions.

SECTION VIII - CONDITIONS

The following conditions apply in addition to the Common Policy Conditions. In case of conflict between these conditions and the Common Policy Conditions, these conditions shall apply as respects this Coverage Part.

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties in the Event of a Communications Wrongful Act, Claim, or Suit

- a. You must see to it that we are notified as soon as practicable of a **communications wrongful act** which may result in a **claim** or **suit**. The notice must include:

- (1) How, when and where the **communications wrongful act** took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any damage arising out of the **communications wrongful act**.

Notice of a **communications wrongful act** is not notice of a **claim**. However, any **claim** resulting from the circumstances described in a notice of a **communications wrongful act** will be deemed to have been made on the date we receive such notice.

- b. If a **claim** is made or **suit** is brought against any insured, you must:
 - (1) Immediately record the specifics of the **claim** or **suit** and the date received;
 - (2) You must see to it that we receive written notice of the **claim** or **suit** as soon as practicable;
 - (3) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the **claim** or **suit**;
 - (4) Authorize us to obtain records and other information relating to the **claim** or **suit**;
 - (5) Cooperate with us in the investigation, settlement or defense of the **claim** or **suit**; and
 - (6) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured for the covered damages which we paid in the **claim** or **suit** to which this insurance may also apply.
- c. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, incur any expense, or settle any **claim** or **suit**, without our consent.

3. Legal Action Against Us

No person or organization has a right under this coverage form:

- a. To join us as a party or otherwise bring us into a **suit** asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after an actual trial, but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Excess Insurance

This insurance is excess over any other collectible insurance, whether primary, excess, contingent or on any other basis, including insurance that is effective prior to the beginning of the policy period shown in the Declarations of this insurance and applies to a **communications wrongful act** on other than a claims-made basis.

We will have no duty to defend the insured against any **claim** or **suit** if any other insurer has a duty to defend the insured against that **claim** or **suit**. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

We will pay only our share of the amount of the **claim** or **suit**, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining amount, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

b. Non Accumulation of Limits

If this Coverage Form and any other Coverage Form or policy issued to you by us, or any company affiliated with us, apply to the same **claim**, the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this coverage form.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations, documentation, data and other material you have furnished us.

7. Separation of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom **claim** is made or **suit** is brought.

8. Transfer of Rights of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after a loss to impair them. At our request, the insured will bring **suit** or transfer those rights to us and help us enforce them. Any recovery will be paid first to us until all amounts we have spent on a **claim** or **suit** have been reimbursed. The insured expressly waives the right to be made whole by any such recovery.

<i>SERFF Tracking Number:</i>	<i>BEAC-125702283</i>	<i>State:</i>	<i>Arkansas</i>
<i>First Filing Company:</i>	<i>The Employers' Fire Insurance Company, ...</i>	<i>State Tracking Number:</i>	<i>EFT \$50</i>
<i>Company Tracking Number:</i>	<i>2008-PL-AR-FO-553</i>		
<i>TOI:</i>	<i>17.0 Other Liability-Occ/Claims Made</i>	<i>Sub-TOI:</i>	<i>17.0000 Other Liability Sub-TOI Combinations</i>
<i>Product Name:</i>	<i>@vantage For Tech E&O Basic</i>		
<i>Project Name/Number:</i>	<i>@vantage For Tech E&O Basic/2008-PL-AR-FO-553</i>		

Rate Information

Rate data does NOT apply to filing.

SERFF Tracking Number: BEAC-125702283 State: Arkansas
First Filing Company: The Employers' Fire Insurance Company, ... State Tracking Number: EFT \$50
Company Tracking Number: 2008-PL-AR-FO-553
TOI: 17.0 Other Liability-Occ/Claims Made Sub-TOI: 17.0000 Other Liability Sub-TOI Combinations
Product Name: @vantage For Tech E&O Basic
Project Name/Number: @vantage For Tech E&O Basic/2008-PL-AR-FO-553

Supporting Document Schedules

Satisfied -Name: Uniform Transmittal Document-Property & Casualty
Review Status: Approved 12/12/2008

Comments:

Attachment:

P&C Transmittal.pdf

Satisfied -Name: Explanatory Memorandum
Review Status: Approved 12/12/2008

Comments:

Attachment:

Forms Explanatory Memorandum.pdf

Property & Casualty Transmittal Document

1. Reserved for Insurance Dept. Use Only	2. Insurance Department Use only a. Date the filing is received: b. Analyst: c. Disposition: d. Date of disposition of the filing: e. Effective date of filing: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">New Business</div> <div style="width: 55%;"></div> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">Renewal Business</div> <div style="width: 55%;"></div> </div> f. State Filing #: g. SERFF Filing #: h. Subject Codes
---	---

3.	Group Name	Group NAIC #
	White Mountains Group	1129

4.	Company Name(s)	Domicile	NAIC #	FEIN #	State #
	Employers' Fire Insurance Company	MA	1129-20648	04-1288420	
	OneBeacon America Insurance Company	MA	1129-20621	04-2475442	

5.	Company Tracking Number	2008-PL-AR-FO-553
-----------	--------------------------------	--------------------------

Contact Info of Filer(s) or Corporate Officer(s) [include toll-free number]

6.	Name and address	Title	Telephone #s	FAX #	e-mail
	Sharon Kennedy	Compliance Analyst	781-332-8190	888-209-7219	skennedy@onebeacon.com

7.	Signature of authorized filer	
8.	Please print name of authorized filer	Sharon Kennedy

Filing information (see General Instructions for descriptions of these fields)

9.	Type of Insurance (TOI)	Other Liability - Claims Made/Occurrence
10.	Sub-Type of Insurance (Sub-TOI)	Other Liability – Sub-TOI Combinations
11.	State Specific Product code(s)(if applicable)[See State Specific Requirements]	
12.	Company Program Title (Marketing title)	@vantage 4 Tech E&O Basic
13.	Filing Type	<input type="checkbox"/> Rate/Loss Cost <input type="checkbox"/> Rules <input type="checkbox"/> Rates/Rules <input checked="" type="checkbox"/> Forms <input type="checkbox"/> Combination Rates/Rules/Forms <input type="checkbox"/> Withdrawal <input type="checkbox"/> Other (give description)
14.	Effective Date(s) Requested	New: 8/20/08 Renewal: 8/20/08

Property & Casualty Transmittal Document---

15.	Reference Filing?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
16.	Reference Organization (if applicable)	
17.	Reference Organization # & Title	
18.	Company's Date of Filing	7/15/08
19.	Status of filing in domicile	<input checked="" type="checkbox"/> Not Filed <input type="checkbox"/> Pending <input type="checkbox"/> Authorized <input type="checkbox"/> Disapproved

20.	This filing transmittal is part of Company Tracking #	2008-PL-AR-FO-553
-----	---	-------------------

21.	Filing Description [This area can be used in lieu of a cover letter or filing memorandum and is free-form text]
-----	---

We are submitting the enclosed forms in support of changes being made to our Technology E&O professional liability coverage in our @vantage Product. Please see the Explanatory Memorandum for further details. We intend to make this coverage available for policies issued on or after August 20, 2008.

22.	Filing Fees (Filer must provide check # and fee amount if applicable) [If a state requires you to show how you calculated your filing fees, place that calculation below]
<p>Check #: Paid via EFT.</p> <p>Amount: AR form filing fee = \$50.00 per filing, per line of business. 1 filing x 1 Line of Business x \$50.00 = \$50.00 total filing fees.</p> <p>Refer to each state's checklist for additional state specific requirements or instructions on calculating fees.</p>	

***Refer to each state's checklist for additional state specific requirements (i.e. # of additional copies required, other state specific forms, etc.)

FORM FILING SCHEDULE

(This form must be provided **ONLY** when making a filing that includes forms)
 (Do **not** refer to the body of the filing for the forms listing, unless allowed by state.)

1.	This filing transmittal is part of Company Tracking #	2008-PL-AR-FO-553			
2.	This filing corresponds to rate/rule filing number (Company tracking number of rate/rule filing, if applicable)	2008-PL-AR-RR-553			
3.	Form Name /Description/Synopsis	Form # Include edition date	Replacement Or withdrawn?	If replacement, give form # it replaces	Previous state filing number, if required by state
01	Technology Errors Or Omissions Coverage Form (Basic Form)	APR 011 05 08	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
02	Communications Liability Protection Coverage Form	APR 010 05 08	<input type="checkbox"/> New <input checked="" type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	APR 010 06 07	
03			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
04			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
05			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
06			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
07			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
08			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
09			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
10			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
11			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		

PC FFS-1

© 2007 National Association of Insurance Commissioners

**State of Arkansas
Explanatory Memorandum - Forms
Technology Errors or Omissions Coverage
@vantage Program**

FORMS

We are making the following changes to our independent professional liability forms and endorsements in our @vantage Product:

Part I - Coverage Forms

- A. Introducing new Technology coverage form, Technology Errors or Omissions Coverage (Basic Form) **APR 011 05 08**
- B. Editorial Revision to correct a typographical error in the Communications Liability Protection Coverage **APR 010**. The 06 07 edition is replaced by the 05 08 edition.

Part II. State Amendatory Supplement

Part I – Coverage Forms

A. Technology Errors or Omissions Coverage (Basic Form) APR 011 05 08

We are introducing a new optional coverage form entitled Technology Errors or Omissions Coverage (Basic Form) **APR 011** under our Technology business segment. This form provides coverage for sums the insured is legally obligated to pay as a result of errors or omissions that result from failure of the insured's "technology offerings" to perform the function or serve the purpose intended.

This form is being offered as an additional coverage option designed to meet the needs of some of our Technology customers. Currently we offer a broad form Technology Errors or Omissions Coverage Form **APR 001** (Broad Form). The Broad Form will continue to be offered as our lead product. However for other potential customers, who do not feel they need a broad level of coverage and do not want to pay the cost of such broad coverage, we wish to make available the Basic Coverage Form **APR 011**. Both coverage forms will be offered to all eligible applicants. Selection of the Coverage Form will be determined by the insured.

The Basic Coverage Form includes much of the same coverage as the broad form including:

- Claims-made coverage form with defense costs included within limits.
- A deductible applies.
- The claim must be made after the retroactive date and before the end of the policy period.
- Automatic Extended Reporting Period of 60 days.
- Supplemental Extended Reporting Period of 5 years or unlimited duration for an additional premium. The length of the reporting period is chosen by the insured.

In consideration of the lower premium, the Basic Coverage Form limits coverage in certain areas. The following chart summarizes the major differences between the two forms:

Policy Provision	APR 001 06 07 Broad Form	APR 011 05 08 Basic Form
Reporting of Claims	This insurance applies to claims for damages first made against an insured during the policy period or any Extended Reporting Period	Claim must be reported during the policy period in which it occurred. This insurance applies to claims for damages first made against an insured during the policy period and reported to us during the policy period or any

		Extended Reporting Period.
Definition of Damages	Undefined	<p>Damages are limited and defined as “economic damages” and includes amounts an insured is legally required to pay as compensatory damages imposed by law.</p> <p>Damages does not include:</p> <ul style="list-style-type: none"> a. Attorney fees or litigation expenses, or other loss, cost or expense, in connection with any injunction or other equitable relief; or b. Amounts owed or paid to any insured in connection with the insured’s technology offerings, including any return of charges, fees, or amounts due under a contract.
Exclusion for Costs to Correct, Repair or Replace	The exclusion applies to the costs or expenses for the correction, repair or replacement for the insured’s technology offerings.	The exclusion is broadened to also exclude the cost or expense to comply with any warranty (in addition to the costs or expenses to correct, repair, or replace the insured’s technology offerings).
Injunctive Relief Exclusion	Not included	Excluded in form.
Intellectual Property Exclusion	Exclusion applies only to direct infringement by an insured.	Total exclusion is included in form.
Multiple Damages Exclusion	Not included	Excluded in form
Prior Knowledge or Reported Acts Exclusion	Exclusion is limited to prior reported claims in whole or in part, to another insurance company prior to the first effective date from which we have continuously provided this coverage to the insured.	Exclusion is broadened to add prior knowledge of an error or omission or any Reported Acts. This would include any error or omission the insured had knowledge of, or any error or omission that has been reported to another insurance company, prior to the first effective date from which we have continuously provided this coverage to the insured.
Prior Wrongful Acts Exclusion	Not included	Prior Wrongful Acts first committed before the Retroactive Date are

		excluded.
Termination of Contracts Or Licenses Exclusion	Not included	Exclusion is added to apply if the termination of a contract or license is within insured's control
Unauthorized Access Exclusion	Exclusion applies to failure of the insured to prevent unauthorized access to, or use of any computer, software, network or electronic information system.	Exclusion is broadened to include failure to prevent unauthorized access to private data.
Definition of Employee	Includes contracted labor	Contracted labor is not included within the definition of employee.

B. Communications Liability Protection Coverage Form APR 010 05 08

We are correcting a typographical error in the Communications Liability Errors or Omissions Coverage Form APR 010. The definitions numbering sequence is corrected to include number 2 in the list of exclusions which was inadvertently omitted. There are no changes to the definitions other than the number change and therefore there is no coverage impact. The 05 08 edition replaces the 06 07 edition of the form

Part II - State Amendatory Endorsements

The currently approved State Amendatory endorsements applicable to the Technology Errors or Omissions Coverage Form APR 001 will also apply to the Basic Coverage Form APR 011.